



## ***CLOSED CASE SUMMARY***

ISSUED DATE: NOVEMBER 6, 2020

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0277

### **Allegations of Misconduct & Director's Findings**

Named Employee #1

| Allegation(s): |  | Director's Findings               |
|----------------|--|-----------------------------------|
| # 1            | 13.031 - Vehicle Eluding/Pursuits 4. Officers Will Not Pursue Without Articulable Justification... | Not Sustained (Training Referral) |

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **EXECUTIVE SUMMARY:**

It is alleged that the Named Employee engaged in an out of policy vehicle pursuit.

### **ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, believed that it could reach and issue recommended findings based solely on its intake investigation.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegation #1**

***13.031 Vehicle Eluding/Pursuits 4. Officers Will Not Pursue with Articulable Justification that the Public Safety Need to Stop the Eluding Vehicle Outweighs the Inherent Risk of Pursuit Driving***

Named Employee #1 (NE#1) was working patrol when he observed a vehicle being driven with its left fender well hanging off. NE#1 ran the license plate and determined that he was following a vehicle that was reportedly stolen. NE#1 called for backup and initiated a vehicle stop. The driver responded by accelerating in an apparent effort to prevent being stopped. NE#1 began pursuing the fleeing vehicle. At an early point in this pursuit, NE# updated dispatch informing them that his speed was 70 MPH. The speed limit posted in this area is 60 MPH. While NE#1 was still actively pursuing the suspect vehicle, the supervising Sergeant ordered NE#1 to terminate the pursuit, which he immediately did.

SPD reports revealed that the Sergeant actively monitored NE#1's actions and made an immediate decision to terminate NE#1's pursuit after identifying aspects that were not consistent with SPD policy. The Sergeant conducted a review of the incident and initiated counseling for NE#1 with his direct supervisor. This counseling included: watching In-Car Video, policy review, and analyzing the actions taken by both the suspect and NE#1. NE#1's direct



supervisor also recommended corrective action training with a supervisor and also noted in his review that this was NE#1's first pursuit. NE#1's supervisor also noted that NE#1 recognized his error and affirmed that he would follow SPD policy on vehicle pursuits in the future. In accordance with SPD policy, this out-of-policy pursuit was forwarded to OPA by NE#1's lieutenant.

SPD Policy 13.031-POL-4 states that "officers will not pursue without articulable justification that the public safety need to stop the eluding vehicle outweighs the inherent risk of pursuit driving. The policy indicates that "[t]he circumstances justifying the decision to pursue an eluding vehicle must be articulable at the time the officer initiates the pursuit. (SPD Policy 13.031-POL-4.) Lastly, the policy explains when a pursuit is not justified, including where the crime is one or a combination of the following: traffic violations/civil infractions; misdemeanors/gross misdemeanors; property crimes; and the act of eluding alone. (*Id.*)

NE#1's In-Car Video and radio transmissions establish that he engaged in a vehicle pursuit of a suspected stolen vehicle in violation of SPD policy. Policy states that officers will not pursue solely for property crimes or the crime of eluding, which is exactly what took place in this instance.

NE#1's chain of command immediately reviewed the incident and took action to counsel, mentor and retrain NE#1 on SPD's pursuit policy and his actions. In addition, NE#1's chain of command has put a plan in place to monitor NE#1 to ensure his compliance with the Department's pursuit policy. OPA concurs with the steps taken by the chain of command in this case. Accordingly, OPA recommends that this allegation be Not Sustained - Training Referral.

- **Training Referral:** NE#1's chain of command should debrief this incident with him. This debrief should include retraining on SPD Policies 13.031-POL-4. NE#1 should be counseled to ensure compliance in the future with these policies and the other policies concerning pursuits and emergency driving. To the extent these matters have already been fully covered by NE#1's chain of command, no further retraining or counseling is necessary. This retraining and associated counseling must be documented, and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**